

REMARKS

**I.** Status of the Claims

Claims 1-2, 4-26 and 28-36 are pending. Claims 3 and 27 have been canceled without prejudice. Claims 1, 4, 5, 8, 10, 14-17, 19, 21, 22, 24-26, 29, 30, 33, and 36 have been amended to clarify the claimed subject matter. Support for these amendments can be found throughout the originally filed specification and figures, see for example, Figure 3. Accordingly, none of the amendments introduce new matter.

As a preliminary matter, by this amendment, Claims 14, 16, 17, 22, 24, 25, 30, and 36 have been amended for formal reasons unrelated to patentability of the claims. No subject matter is intended to be relinquished by these formal amendments.

**II.** Objections to Claims 4 and 29

Applicant thanks the Examiner for consideration of claims 4 and 29 as allowable if written in independent form. Claims 4 and 29 have been so amended. Allowance of these claims is respectfully requested.

**III.** Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 8-11, 14, 17, 19-21, 25, 33 and 36 under 35 U.S.C. § 112, second paragraph, as being indefinite.

In particular, the Examiner contends that there is no relationship established between the “at least one first member protrusion” recited in claims 1, 15, and 26, and both (1) the “portion of a first member” recited in claims 10, 21 and 33 and (2) the “portion of the first member protrusion” recited in claim 19. Applicants have amended claims 10, 19, 21, and 33 to more

clearly define the claimed subject matter. For example, in claims 10, 21, and 33, “the first member” has been amended to recite “at least one first member protrusion.” In addition, “the first member protrusion” in claim 19 has been amended to recite “at least one first member protrusion.”

Claims 14, 17, 25, and 36 have been amended to remedy the antecedent basis rejections.

Accordingly, Applicant’s respectfully request that the 35 U.S.C. § 112 rejections be withdrawn.

#### **IV. Rejection Under 35 U.S.C. §102(e)**

The Examiner rejected claims 1, 2, 8, 12-16, 18, 19, 22-26, 31, 32 and 34-36 under 35 U.S.C. § 102(e) (“The Claims Rejected under 35 U.S.C. § 102(e)”) as being anticipated by U.S. Patent No. 6,898,823 to Tsai (“Tsai”). Applicants respectfully traverse these rejections for at least the following reasons.

As a threshold matter, the Examiner has not made a prima facie case of anticipation under 35 U.S.C. § 102(e) for various claims identified above. According to MPEP § 2131, “to anticipate a claim, the reference must teach every element of the claim.” To support rejection of The Claims Rejected under 35 U.S.C. § 102(e), the Examiner states:

Member 84 is considered to define a joint locking member to the extent that it prevents the handle and tubular member for slipping laterally. Members 96,98 and 104 define a first member external to the joint lock member at the upper end and extending at the upper end into the handle passageway, Note that the lower end particularly at 104 can be considered to be part of the protrusion with the portion at 104 defining at least a portion extending into the internal volume of the tubular member. Member 110 may be considered to be a second member or a second protrusion of the first member depending on the combination claimed. It defines a

portion which extends in the internal volume as claimed. The collar 108 slides between two positions as shown in Figure 4 and Figure 5.

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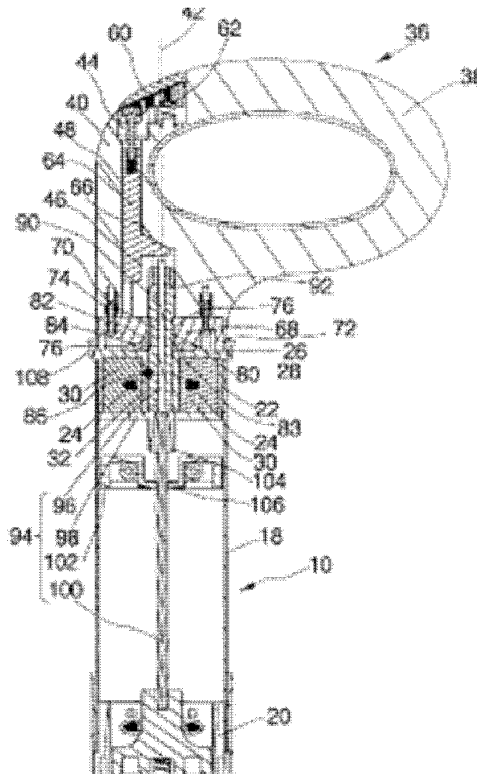
Applicant respectfully submits that, for various elements of The Claims Rejected Under 35 U.S.C. § 102(e), support has not been provided, for example, “wherein the first member comprises a pair of first member protrusions communicating with the internal volume” of claims 2, 16, and 28.

Nonetheless, as amended, independent Claims 1, 15, and 26 each recite, *inter alia*:

a first member...wherein the first member comprises at least one first member protrusion, the at least one first member protrusion having a first position disposed in the passageway of the handle and not disposed in the internal volume of the tubular member.

The Examiner alleges that member 84 of *Tsai* defines a joint locking member and that members 96, 98, and 104 define a first member external to the joint lock member. Even if member 84 of *Tsai* defines a joint locking member and that members 96, 98, and 104 define a first member external to the joint lock member, *Tsai* fails to show the at least one first member protrusion having a first position disposed in the passageway of the handle and not disposed in the internal volume of the tubular member.

Rather, in direct contrast, *Tsai* discloses a retractable handle assembly in which the members 96, 98, and 104 are permanently positioned within both the handle and tubular portions. Indeed, Figure 4 of *Tsai*, which is reproduced below for the Examiner’s convenience, illustrates members 96, 98, and 104 which extend through the handle plug 68 so as to be simultaneously, and permanently, positioned within the handle portion 40 and the tubular portion 10.



Accordingly, for at least these reasons, Applicant respectfully submits that Tsai does not anticipate independent claims 1, 15, and 26. Furthermore, for at least the reasons stated above, dependent claims 2, 8, and 12-14 (which depend from amended claim 1), 16, 18, 19, 22-25 (which depend from amended claim 15), and claims 31, 32, 34-36 (which depend from amended claim 26) are also not anticipated by Tsai at least because of their dependency from the respective independent claims.

#### V. Rejections under 35 U.S.C. §103(a)

The Examiner rejected claims 5-7, 9-11, 17, 20, 21, 28, 30, and 33 under 35 U.S.C. § 103(a) as being unpatentable over the references applied to claims 8 and 26, and further in view of U.S. Patent No. 6,668,423 to Chen (“Chen”).

As a threshold matter, the Examiner has not made a prima facie case of obviousness under 35 U.S.C. § 103 for claims 5-7, 17, 20, and 21. The Examiner combines *Chen* with the references as applied to claims 8 and 26 to support the obviousness rejections. However, claims 5-7, 17, 20, and 21 do not depend from claims 8 or 26 and are otherwise distinct claimed subject matter.

Even so, As discussed above, *Tsai* fails to disclose or suggest various features of the independent claims. For example, nothing in *Tsai* shows a first member...wherein the first member comprises at least one first member protrusion, the at least one first member protrusion having a first position disposed in the passageway of the handle and not disposed in the internal volume of the tubular member (emphasis added). *Chen* likewise fails to disclose or suggest such a first member. Accordingly, whether taken alone or in combination, *Tsai* and *Chen* do not render obvious claims 5-7, 9-11, 17, 20, 21, 28, 30, or 33.

## **VI. Formal Request for Interview**

Applicant submits that the present application is in condition for allowance at least for the reasons set forth herein. If the present application is not considered to be in condition for allowance by the Examiner, Applicant requests an interview with the Examiner to discuss the present application and the prior art of record. Applicant’s Attorney at (212) 408-2500 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

## VII. Conclusion

The amendments of the claims above are being made solely to expedite prosecution of the present application and do not constitute an acquiescence to any reference identified by the Examiner. For the reasons set forth above, Applicant respectfully submits that all pending claims define patentable subject matter over the cited art, either considered alone or in combination.

In view of the foregoing, Applicant believes that the entire application is now in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues in an effort to expedite the allowance of this application.

Applicant authorizes the Commissioner to charge any additional fees and/or credit any overpayments associated with this paper to Baker Botts L.L.P. Deposit Account No. 02-4377, Ref. No. 072841.0230. Further, if a fee is required for an extension of time under 37 C.F.R. § 1.136 not provided for above, Applicant requests such extension and authorizes the charging of the extension fee to Baker Botts L.L.P. Deposit Account No. 02-4377, Ref. No. 072841.0230.

Respectfully submitted,

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